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Hon. Karen A. Overstreet

Andrew L. Symons  
Inslee, Best, Doezie & Ryder, P.S.  
777 - 108th Ave. N.E., Suite 1900  
P.O. Box C-90016  
Bellevue, WA 98009-9016  
(425) 455-1234

M.L. HATCHER, CLK  
U.S. BANKRUPTCY COURT  
W.D. OF WA AT SEATTLE  
BY \_\_\_\_\_ CLK

UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

CANYON PARK SEE STORE, INC., a  
Washington corporation, and AKBARALI  
"SAM" SAMANANI, an individual,

Plaintiffs,

vs.

LAKHA INVESTMENT CO., LLC, a  
Washington limited liability company,  
AMIN S. ("ANDY") LAKHA, an  
individual; EMERALD CITY  
CONSTRUCTION, INC., a Washington  
corporation, KEYBANK OF  
WASHINGTON, d/b/a KEYBANK  
NATIONAL ASSOCIATION, a  
Washington corporation, JOE DOE  
CORPORATION, the corporate identity  
or assignee of the rights and liabilities of  
Keybank National Association, if any,  
relevant to this action; and ARCO  
PRODUCTS COMPANY, a Delaware  
corporation,

Defendants.

Bankruptcy Case No. 02-21702

Adversary Proceeding No. A02-01565

ANSWER OF DEFENDANTS LAKHA  
INVESTMENT CO., L.L.C.; LAKHA;  
AND EMERALD CITY  
CONSTRUCTION AND  
COUNTERCLAIM

Defendants Lakha Investment Co., L.L.C.; Amin S. Lakha; and Emerald City  
Construction Management Co., for answer and counterclaim to plaintiffs' complaint, state

ANSWER OF DEFENDANTS LAKHA  
INVESTMENT, LAKHA AND EMERALD  
CITY CONSTRUCTION AND  
COUNTERCLAIM - 1

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INSLEE, BEST, DOEZIE & RYDER, P.S.

ATTORNEYS AT LAW  
777 - 108th Avenue N.E.  
Suite 1900  
P.O. Box C-90016  
Bellevue, Washington 98009-9016  
(425) 455-1234

ORIGINAL

1 and allege as follows:

2 1.1 Paragraph 1.1 of the complaint is admitted.

3 1.2 Answering paragraph 1.2 of the complaint, admitted that Canyon Park See  
4 Store, Inc., is a Washington corporation. Denied that said corporation has authorized the  
5 filing of the above-entitled Chapter 11 proceeding or this action and therefore denied that  
6 said corporation is the "debtor" in the above-entitled bankruptcy proceeding under Chapter  
7 11 of the Bankruptcy Code.

8 1.3 Each and every allegation in paragraph 1.3 of the complaint is denied.

9 1.4 Answering paragraph 1.4 of the complaint, admitted that the debt owed by  
10 CPSS to Key Bank is the largest single debt owed by CPSS, that Lakha Investment Co.,  
11 L.L.C., is a Washington limited liability company principal member is Amin S. Lakha and  
12 that said company has the right to vote all of the shares of CPSS. Each and every other  
13 allegation in said paragraph is denied.

14 1.5 Answering paragraph 1.5, admitted that Emerald City Construction  
15 Management Co., referred to in the complaint as "Emerald City," is a Washington  
16 corporation whose sole shareholder is Amin S. Lakha and that said corporation contracted  
17 with CPSS and built the Canyon Park Station. Each and every other allegation in said  
18 paragraph is denied.

19 1.6 Answering paragraph 1.6, admitted that Amin S. Lakha is the sole member  
20 of Lakha Investment Co., L.L.C., and the sole shareholder, officer and director of Emerald  
21 City Construction Management Co. Each and every other allegation in said paragraph is  
22 denied.

23 1.7 Answering paragraph 1.7 of the complaint, the first three sentences thereof  
24 are admitted. Denied that any alleged construction costs and/or estimated earnings potential

1 were "proffered by the Lakha Defendants" and further denied that the "Lakha Defendants"  
2 made any representations. The last sentence thereof is denied. These answering defendants  
3 lack sufficient knowledge or information from which to form a belief as to the remaining  
4 allegations in said paragraph and therefore deny the same.

5 1.8 Answering defendants lack knowledge or information from which to form any  
6 belief as to the truth or falsity of the allegations made in paragraph 1.8 of the complaint and  
7 therefore deny the same.

8 1.9 Answering defendants lack knowledge or information from which to form any  
9 belief as to the truth or falsity of the allegations made in paragraph 1.9 of the complaint and  
10 therefore deny the same.

11 2.1 Answering defendants hereby incorporate their answers to paragraphs 1.1  
12 through 1.9 of the complaint.

13 2.2 Answering paragraph 2.2 of the complaint, admitted that plaintiff Samanani  
14 was introduced to Amin Lakha by Abdul Lalani, apparently a mutual acquaintance, in  
15 approximately 1999. The remaining allegations in said paragraph are denied.

16 2.3 The allegations in paragraph 2.3 are denied.

17 2.4 Answering the allegations in paragraph 2.4, admitted that Lalani served as  
18 primary manager of the business until late 2001, when Samanani took over. Each and every  
19 other allegation in said paragraph is denied.

20 2.5 The allegations in paragraph 2.5 of the complaint are denied.

21 2.6 The allegations in paragraph 2.6 of the complaint are denied.

22 2.7 Answering paragraph 2.7, admitted that Samanani was and is a personal  
23 guarantor of the Key Bank loan, which Key Bank required. Each and every other allegation  
24 in said paragraph is denied.

1           2.8     Each and every allegation in paragraph 2.8 of the complaint is denied.

2           2.9     Answering paragraph 2.9, admitted that CPSS secured additional funds from  
3     ARCO in the amount of approximately \$400,000 and that said agreement was terminated by  
4     ARCO and that CPSS had difficulties apparently related to the PIC machines and/or software  
5     or hardware related to those machines, the exact causes and responsibility for which are not  
6     known to these defendants. Denied that entry into said contract was "at Lakha's urging."  
7     Answering defendants lack sufficient knowledge or information as to the remaining  
8     allegations in said paragraph and therefore deny the same.

9           2.10    Answering paragraph 2.10 of the complaint, admitted that LIC provided  
10    \$250,000 in financing to CPSS and that CPSS and Samanani signed a Stock Pledge and  
11    Option Agreement, prepared by LIC's attorneys, which secured, among others, CPSS's  
12    repayment of said obligation to LIC, and that by said Agreement Samanani pledged all of the  
13    shares of CPSS and granted the voting rights to LIC to secure, among other things,  
14    repayment of said obligation and the promise and obligation of CPSS and Samanani to  
15    obtain refinancing of the Key Bank loan prior to the end of its term in September 2001. All  
16    other allegations in said paragraph are denied.

17          2.11    Answering paragraph 2.11, admitted that CPSS paid \$219,900 to "Emerald  
18    City" for construction costs. All other allegations in said paragraph are denied.

19          2.12    Answering paragraph 2.12, admitted that CPSS and Samanani have been in  
20    default under the Stock Pledge Agreement for, among other things, failure to refinance the  
21    Key Bank loan and failure to re-pay the \$250,000 loan to LIC and that LIC has accordingly  
22    declared CPSS and Samanani to be in default pursuant to the terms of the Stock Pledge  
23    Agreement and that, irrespective of such defaults, LIC holds the voting rights to the stock  
24    pursuant to said Agreement. All other allegations in said paragraph are denied.

1           3.1     Answering defendants re-incorporate their responses to the prior paragraphs  
2 of the complaint.

3           3.2     Answering paragraph 3.2 of the complaint, admitted that Samanani alleges a  
4 dispute over the ownership and/or right to vote the shares of stock of CPSS. Said claims by  
5 Samanani are patently contrary to the express terms of the document he signed and therefore  
6 barred as a matter of law. The remaining allegations in said paragraph are denied.

7           3.3     The allegations in paragraph 3.3 of the complaint are denied.

8           3.4     The allegations in paragraph 3.4 of the complaint are denied.

9           4.1     Answering defendants re-incorporate their responses to the prior paragraphs  
10 of the complaint.

11          4.2     Each and every allegation in paragraph 4.2 of the complaint is denied.

12          4.3     Each and every allegation in paragraph 4.3 of the complaint is denied.

13          4.4     The allegations in paragraph 4.4 of the complaint are denied.

14          5.1     Answering defendants re-incorporate their responses to the prior paragraphs  
15 of the complaint.

16          5.2     Answering the allegations in paragraph 5.2 of the complaint, these defendants  
17 lack sufficient knowledge or information from which to form a belief as to the truth or falsity  
18 of the first sentence thereof and therefore deny the same and further deny each and every  
19 other allegation in said paragraph.

20          5.3     The allegations in paragraph 5.3 of the complaint are denied.

21          6.1     Answering defendants re-incorporate their responses to the prior paragraphs  
22 of the complaint.

1           6.2     Answering defendants lack sufficient knowledge or information from which  
2 to form a belief as to the truth or falsity of the allegations in paragraph 6.2 of the complaint  
3 and therefore deny the same.

4           6.3     Answering defendants lack sufficient knowledge or information from which  
5 to form a belief as to the truth or falsity of the allegations in paragraph 6.3 of the complaint  
6 and therefore deny the same.

7  
8                                   **AFFIRMATIVE DEFENSES**

9           A.     This court lacks jurisdiction of this proceeding by reason of the absence of the  
10 required corporate authority of Canyon Park See Store, Inc., to commence the Chapter 11  
11 proceeding to which this adversary proceeding is annexed.

12           B.     Canyon Park See Store, Inc., is not properly made a party hereto. The filing  
13 of the petition for Chapter 11 reorganization and the signing and filing of the complaint in  
14 this adversary proceeding is not an authorized action of said corporation and is *ultra vires*  
15 as to said corporation.

16           C.     The claims of plaintiff Samanani are not properly before this court as said  
17 claims are not related to nor properly a part of any Chapter 11 reorganization proceeding  
18 involving Canyon Park See Store, Inc., are not properly part of a core proceeding, and are  
19 not otherwise within this court's jurisdiction.

20           D.     Plaintiffs' complaint fails to state a claim on which any relief can be granted.

21           E.     The claims, allegations, assertions and contentions of plaintiffs are barred by  
22 the express terms of documents and agreements executed by plaintiffs, including, but not  
23 limited to, the Stock Pledge and Option Agreement referred to in the complaint.

1 F. Plaintiffs' claims are barred by waiver, estoppel, satisfaction, release, and  
2 discharge.

3 G. Plaintiffs' claims are barred for failure to mitigate and by the doctrine of  
4 avoidable consequences.

5 H. Any and all losses claimed or alleged by plaintiffs are the direct and proximate  
6 result of plaintiffs' own improper, unlawful and negligent acts.

7 I. Plaintiffs' claims are barred by the Statute of Frauds.

8 J. Plaintiffs have failed to join all necessary parties.

9 K. Plaintiff Samanani is a married individual whose marriage is subject to the  
10 community property laws of the states of Washington and Texas and any claim by said  
11 plaintiff is a claim belonging to his marital community and requires joinder of his spouse.  
12

### 13 COUNTERCLAIMS

14 Without waiver of the above-listed affirmative defenses, including lack of subject  
15 matter jurisdiction and lack of required corporate authority, answering defendants Lakha and  
16 Lakha Investment Co., L.L.C. ("LIC"), state and allege the following as and for  
17 counterclaims against plaintiffs:

18 1. Plaintiffs are jointly and severally indebted to LIC pursuant to that certain  
19 promissory note dated September 12, 2000, in the principal amount of \$250,000, plus  
20 interest, charges and fees due thereon, no portion of which have been paid. Said note is past  
21 due and is owing in full.

22 2. In addition, plaintiff Samanani is indebted to defendant LIC on certain  
23 promissory notes and obligations, the amounts and details of which will be proven at trial  
24 or on further proceedings herein, which notes are past due and on which Samanani is

1 therefore indebted for principal, interest, late charges and attorney's fees according to the  
2 terms of such notes. The combined amounts now past due on said notes exceeds \$200,000.

3 3. Plaintiffs and their counsel have filed the Chapter 11 petition herein with full  
4 knowledge that plaintiff Samanani lacks the authority required for such filing and that said  
5 filing was not duly authorized by the corporate authority required to file for such relief on  
6 behalf of plaintiff CPSS.

7 4. As a result of such unauthorized filing, plaintiffs have caused Lakha and LIC  
8 to incur additional costs and losses, including, but not limited to, additional interest, fees and  
9 charges pursuant to the Key Bank loan with respect to which Lakha and LIC are guarantors.

10 5. Plaintiff Samanani is further liable to Lakha and LIC for equitable  
11 contribution for any and all amounts Lakha and/or LIC may be required to pay as co-  
12 guarantors of the Key Bank loan.

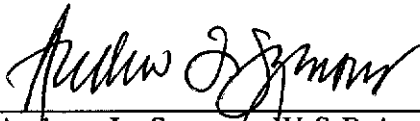
13 6. Samanani has wrongfully converted, taken and diverted property and funds  
14 belong to Canyon Park See Store, Inc., which funds and property would otherwise be  
15 available to the payment of debts of said corporation, including the Key Bank loan, as a  
16 result of which Lakha and/or LIC have sustained losses in amounts to be proven on further  
17 proceedings herein if this matter is not sooner dismissed for lack of jurisdiction for reasons  
18 previously stated herein.

19 WHEREFORE, these defendants pray for judgment dismissing plaintiffs' complaint  
20 with prejudice, and, if this matter is not sooner dismissed for lack of jurisdiction, for  
21 judgment against plaintiffs on the counterclaims of Lakha and LIC, respectively, and for  
22 these defendants' costs, including their attorney's fees and costs and all such other amounts  
23 as the court may award as damages pursuant to Bankruptcy Rule 9011 and Fed. R. Civ. Pro.  
24 11 for plaintiffs' knowing unauthorized filing of a Chapter 11 petition herein.

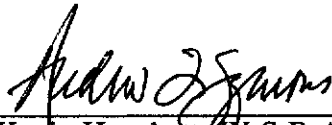


1 DATED this 5<sup>th</sup> day of November, 2002.

2 INSLEE, BEST, DOEZIE & RYDER, P.S.

3  
4 By   
5 Andrew L. Symons, W.S.B.A. #7770

6 LASHER, HOLZAPFEL, SPERRY &  
7 EBBERSON, PLLC

8 By   
9 for Kevin Hanchett, W.S.B.A. #16553

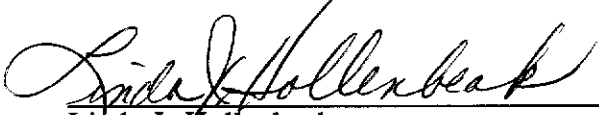
10 Attorneys for Defendants Lakha  
11 Investment Co., L.L.C.; Amin S.  
12 ("Andy") Lakha; and Emerald City  
13 Construction, Inc.

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**CERTIFICATE OF SERVICE**

I, Linda J. Hollenbeak, certify that on this date a true copy of this document was sent for delivery to plaintiffs' counsel of record, Eric Zimbelman, by facsimile and legal messenger delivery. I certify under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

DATED: November 6, 2002, at Bellevue, Washington.

  
\_\_\_\_\_  
Linda J. Hollenbeak